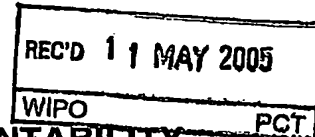


PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY (Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)



Applicant's or agent's file reference 67787-75088	FOR FURTHER ACTION		See Form PCT/PEA/416
International application No. PCT/SE2004/001018	International filing date (day/month/year) 23.06.2004	Priority date (day/month/year) 23.06.2003	
International Patent Classification (IPC) or national classification and IPC G01C5/02			
Applicant TRIMBLE AB et al.			
<p>1. This report is the International preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of 6 sheets, including this cover sheet.</p> <p>3. This report is also accompanied by ANNEXES, comprising:</p> <p style="margin-left: 20px;">a. <input type="checkbox"/> sent to the applicant and to the International Bureau a total of sheets, as follows:</p> <p style="margin-left: 40px;"><input type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis of this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).</p> <p style="margin-left: 40px;"><input type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in Item 4 of Box No. I and the Supplemental Box.</p> <p style="margin-left: 20px;">b. <input type="checkbox"/> (sent to the International Bureau only) a total of (indicate type and number of electronic carrier(s)) , containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).</p>			
<p>4. This report contains indications relating to the following items:</p> <p><input checked="" type="checkbox"/> Box No. I Basis of the opinion</p> <p><input type="checkbox"/> Box No. II Priority</p> <p><input type="checkbox"/> Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability.</p> <p><input checked="" type="checkbox"/> Box No. IV Lack of unity of invention</p> <p><input checked="" type="checkbox"/> Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</p> <p><input type="checkbox"/> Box No. VI Certain documents cited</p> <p><input checked="" type="checkbox"/> Box No. VII Certain defects in the international application</p> <p><input type="checkbox"/> Box No. VIII Certain observations on the international application</p>		<p>EPO-DG 1</p> <p>13. 03. 2006</p> <p>TEAM 14</p>	
Date of submission of the demand 20.10.2004		Date of completion of this report 10.05.2005	
<p>Name and mailing address of the International preliminary examining authority:</p> <p> European Patent Office D-80298 Munich Tel. +49 89 2399 - 0 Tx: 523656 epmu d Fax: +49 89 2399 - 4485</p>		<p>Authorized Officer</p> <p>Dighaye, J-L</p> <p>Telephone No. +49 89 2399-2823</p> <p style="text-align: right;"></p>	

**INTERNATIONAL PRELIMINARY REPORT
ON PATENTABILITY**

International application No.
PCT/SE2004/001018

Box No. I Basis of the report

1. With regard to the **language**, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.
 - ☐ This report is based on translations from the original language into the following language , which is the language of a translation furnished for the purposes of:
 - ☐ international search (under Rules 12.3 and 23.1(b))
 - ☐ publication of the international application (under Rule 12.4)
 - ☐ international preliminary examination (under Rules 55.2 and/or 55.3)
2. With regard to the **elements*** of the international application, this report is based on *(replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report):*

Description, Pages

1-38 as originally filed

Claims, Numbers

1-58 as originally filed

Drawings, Sheets

1/12-12/12 as originally filed

- ☐ a sequence listing and/or any related table(s) - see Supplemental Box Relating to Sequence Listing

3. ☐ The amendments have resulted in the cancellation of:
 - ☐ the description, pages
 - ☐ the claims, Nos.
 - ☐ the drawings, sheets/figs
 - ☐ the sequence listing (*specify*):
 - ☐ any table(s) related to sequence listing (*specify*):
4. ☐ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).
 - ☐ the description, pages
 - ☐ the claims, Nos.
 - ☐ the drawings, sheets/figs
 - ☐ the sequence listing (*specify*):
 - ☐ any table(s) related to sequence listing (*specify*):

* If item 4 applies, some or all of these sheets may be marked "superseded."

**INTERNATIONAL PRELIMINARY REPORT
ON PATENTABILITY**

International application No.
PCT/SE2004/001018

Box No. IV Lack of unity of invention

1. ☐ In response to the invitation to restrict or pay additional fees, the applicant has:
- ☐ restricted the claims.
 - ☐ paid additional fees.
 - ☐ paid additional fees under protest.
 - ☐ neither restricted nor paid additional fees.
2. ☒ This Authority found that the requirement of unity of invention is not complied with and chose, according to Rule 68.1, not to invite the applicant to restrict or pay additional fees.
3. This Authority considers that the requirement of unity of invention in accordance with Rules 13.1, 13.2 and 13.3 is
- ☐ complied with.
 - ☒ not complied with for the following reasons:
see separate sheet
4. Consequently, this report has been established in respect of the following parts of the international application:
- ☒ all parts.
 - ☐ the parts relating to claims Nos. .

Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement
- | | | |
|-------------------------------|-------------|------|
| Novelty (N) | Yes: Claims | 1-58 |
| | No: Claims | |
| Inventive step (IS) | Yes: Claims | 1-58 |
| | No: Claims | |
| Industrial applicability (IA) | Yes: Claims | 1-58 |
| | No: Claims | |
2. Citations and explanations (Rule 70.7):
- see separate sheet**

Box No. VII Certain defects in the international application

The following defects in the form or contents of the international application have been noted:

see separate sheet

**INTERNATIONAL PRELIMINARY
REPORT ON PATENTABILITY
(SEPARATE SHEET)**

International application No.

PCT/SE2004/001018

To Section IV

The application comprises an excessive number of independent claims, some of which are directed to apparently distinct features not linked by a common inventive concept.

If the application is to be prosecuted, for instance as a European application, its subject-matter should be restricted to a single concept. For instance, the features of certain presently independent claims should be made the subject-matter of dependent claims if there is a basis for that in the original disclosure; or certain independent claims should be deleted from the present set of claims.

More concretely, the set of claims comprises:

- Method claim 1: it refers to three possible errors, at least one of them being used for alignment controlling:
 - a) trunnion axis error;
 - b) horizontal collimation error;
 - c) total plumb error defined by two components PI and PII.
- Method claim 8: based on a horizontal orientation correction value depending on a transverse plumb error value. This relates to only one of the two components of claim 1, c), namely PI. Thus there is no use of the two components PI and PII of claim 1. Maybe this could be considered as a particular restriction of the method of claim 1, in which case the features of claim 8 pertaining to that restriction should be made the subject-matter of a dependent claim.
- Method claim 18: based on several specific steps (setting, pivoting, generating, automatically controlling) depending on different compass bearings, whereby no direct link to claim 1 or claim 8 is apparently present.
- Method claim 19: based on a vertical orientation correction value depending on a longitudinal plumb error value. This relates to only one of the two components of claim 1, c), namely PII. Thus there is no use of the two components PI and PII of claim 1. Maybe this could be considered as a particular restriction of the method of claim 1, in which case

**INTERNATIONAL PRELIMINARY
REPORT ON PATENTABILITY
(SEPARATE SHEET)**

International application No.

PCT/SE2004/001018

the features of claim 19 pertaining to that restriction should be made the subject-matter of a dependent claim.

- Apparatus claim 28 directed to a surveying instrument suitable for the method of claim 8;
- Apparatus claim 37 directed to a surveying instrument suitable for the method of claim 19;
- Apparatus claim 40 directed to an error compensation system. This system compensates for two errors - tilt error and error due to mechanical imperfections - thus it is not linked to claim 1 dealing, as a minimum, with one error;
- Apparatus claim 58 directed to a surveying instrument comprising the error compensation system of claim 40.

To Section V

The closest prior art revealed by the International Search Report (ISR) appears to be D1 = US-A-6'138 367. It is considered, in the ISR, as a mere example of the general state of the art. It is analysed in the present description, p. 2, ll. 9-15. D1 does not appear to disclose all the features a) through d) of claim 1; and consequently also not the more restrictive features of claims 8, 18, 19 and the corresponding apparatus claims. A system compensating for two errors, comprised (see claim 58) or not (see claim 40) in a surveying instrument, is also not disclosed in D1. Thus the present claims are considered novel over D1.

The other documents cited in the ISR, namely D2 = US-B1-6 421 360 and D3 = DE-A-100 52 150, are even less relevant. D2 is directed to a rotational constructional laser, i.e. not the kind of surveying instrument referred to in the present claims. D3 discloses a survey instrument with magnetic incremental coding means unrelated to any aspect of the present invention or inventions. Thus there appears no combination of D1 with either D2 or D3 which could render the subject-matter of the present claims obvious.

**INTERNATIONAL PRELIMINARY
REPORT ON PATENTABILITY
(SEPARATE SHEET)**

International application No.

PCT/SE2004/001018

To Section VII

The structure of present claim 1 is misleading. Since claim 1 is a method claim, one would expect that all clauses a) through d) each refer to a step of the method. In fact, a), b) and c) refer to types of errors, whereas only d) is a method step.



P.B.5818 - Patentlaan 2
2280 HV Rijswijk (ZH)
☎ (070) 3 40 20 40
FAX (070) 3 40 30 16

**Europäisches
Patentamt**

**European
Patent Office**

**Office européen
des brevets**

Generaldirektion 1

Directorate General 1

Direction générale 1

Herbjörnsen, Rut
Albihns Stockholm AB
P.O. Box 5581
114 85 Stockholm
SUEDE



EPO Customer Services

Tel.: +31 (0)70 340 45 00

Date

15.02.06

Reference
67787-82334

Application No./Patent No.
04749056.0 - 2213 PCT/SE2004001018

Applicant/Proprietor
Trimble AB

Notification of European publication number and information on the application of Article 67(3) EPC

The provisional protection under Article 67(1) and (2) EPC in the individual contracting states becomes effective only when the conditions referred to in Article 67(3) EPC have been fulfilled (for further details, see information brochure of the European Patent Office "National Law relating to the EPC" and additional information in the Official Journal of the European Patent Office).

Pursuant to Article 158(1) EPC the publication under Article 21 PCT of an international application for which the European Patent Office is a designated Office takes the place of the publication of a European patent application.

The bibliographic data of the above-mentioned Euro-PCT application will be published on 29.03.06 in Section I.1 of the European Patent Bulletin. The European publication number is 1639313.

In all future communications to the European Patent Office, please quote the application number plus Directorate number.

Receiving Section





P.B. 5818 - Patentlaan 2
2280 HV Rijswijk (ZH)
☎ (070) 3 40 20 40
FAX (070) 3 40 30 16

**Europäisches
Patentamt**

**European
Patent Office**

**Office européen
des brevets**

Generaldirektion 1

Directorate General 1

Direction générale 1

Herbjörnsen, Rut
Albihns Stockholm AB
P.O. Box 5581
114 85 Stockholm
SUEDE



EPO Customer Services

Tel.: +31 (0)70 340 45 00

Date

13-02-2006

Reference 67787-82334	Application No./Patent No. 04749056.0 - 2213 PCT/SE2004001018
Applicant/Proprietor Trimble AB	

Communication pursuant to Rules 109 and 110 EPC

(1) Amendment of application documents, especially the claims (R. 109 EPC)

The above mentioned international (Euro-PCT) application has entered the European phase, or can do so, once the necessary conditions are fulfilled.

Under Articles 28, 41 PCT, Rules 52, 78 PCT and Rule 86(2) to (4) EPC, the applicant may amend the application documents after receiving the international search report.

Whether or not he has already done so, he now has a further opportunity to file amended claims or other application documents within a non-extendable time limit of one month after notification of the present communication (R. 109 EPC).

The claims applicable on expiry of the above time limit, i.e. those filed on entry into the European phase or in response to the present communication, will form the basis for the calculation of any claims fee to be paid (see page 2) and for any supplementary search to be carried out under Article 157(2) EPC (R. 109 EPC).



Date 13-02-2006

Sheet 2

Application No. 04749056.0

(2) Claims fees under Rule 110 EPC

If the application documents on which the European grant procedure is to be based comprise more than ten claims, a claims fee shall be payable for the eleventh and each subsequent claim within the period provided for in Rule 107(1) EPC.

- ☒ Based on the application documents currently on file, all necessary claims fees have already been paid (or the documents do not comprise more than 10 claims).
- ☐ All necessary fees will be/have been debited automatically according to the automatic debit order.
- ☐ The claims fee due for the claims to were not paid within the above-mentioned period.

Any non-paid claims fee, either based on the current set of claims or on any amended claims to be filed pursuant to Rule 109 EPC (see page 1), may still be validly paid within a non-extendable period of grace of **one month** after notification of this communication.

If a payment is made for only some of the claims, it must be indicated for which claims it is intended. If a claims fee is not paid in due time, the claim concerned is deemed to be abandoned (R. 110(4) EPC).

If claims fees have already been paid, but on expiry of the above-mentioned time limit there is a new set of claims containing fewer fee-incurring claims than previously, the claims fees in excess of those due under Rule 110(2), 2nd sentence, EPC will be refunded (R. 110(3) EPC).

You are reminded that any supplementary search under Article 157(2) EPC will relate only to the last set of claims applicable on expiry of the above time limit AND will be confined to those fee-incurring claims for which fees have been paid in due time.

The fee for the eleventh and each subsequent claim is EUR 40,00.

Receiving Section

Wernert, Marc





P.B.5818 - Patentlaan 2
2280 HV Rijswijk (ZH)
☎ (070) 3 40 20 40
FAX (070) 3 40 30 16

**Europäisches
Patentamt**

**European
Patent Office**

**Office européen
des brevets**

Generaldirektion 1

Directorate General 1

Direction générale 1

WIPO
The International Bureau
34, Chemin des Colombettes
CH-1211 GENEVA 20
SWITZERLAND



EPO Customer Services

Tel.: +31 (0)70 340 45 00

Date

09-02-2006

Reference
67787-82334

Application No./Patent No.
04749056.0 - 2213 PCT/SE2004001018 / ISA SE

Applicant/Proprietor
Trimble AB

For the aforementioned international application, you are hereby kindly requested to forward to the EPO in its capacity as designated / elected Office:

- ☐ a) The publication of the international search report (Art. 20 PCT).
- ☒ b) the copy of the international preliminary examination report (Art. 36(3)(a) PCT).
- ☐ c) the copy (copies) of the priority document(s). If any document is not available and ISA is not the EP, please indicate below whether the receiving Office has been requested to transmit the document to the International Bureau (Form PCT/RO/101, Box VI; R. 17.1(b) PCT).
- ☐

Receiving Section
Wernert, Marc

Answer of the International Bureau [IB]:

- ☐ The requested item [a), b) or c)] is not available with the IB.

Reason:

For priority documents [c)] with ISA not EP:

- ☐ The applicant has requested the receiving Office to issue a priority document [c)] pursuant to Rule 17.1(b) PCT, but the IB did not receive it.

The International Bureau



To the European Patent Office

Entry into the European phase (EPO as designated or elected Office)

European application number	EP04749058.0
PCT application number	PCT/SE2004/001018
PCT publication number	WO04113835
Applicant's or representative's reference	67787-82334

1. Applicant

Particulars of the applicant(s) are contained in the international publication or were recorded by the International Bureau subsequent to the international publication.



Changes which have not yet been recorded by the International Bureau are set out here:



Address for correspondence

2. Representative 1

This is the representative who will be listed in the Register of European Patents and to whom notifications will be made

Name

Herbjömsen, Mrs Rut

Address of place of business

Albihns Stockholm AB
Box 5581
S-114 85 Stockholm
Sweden

Telephone

+46 8 59 88 72 00

Fax

+46 8 59 88 73 00

e-mail

info.stockholm@albihns.se

Any additional representative(s) is/are listed here:



3. Authorisation

An individual authorisation is attached.



A general authorisation has been registered under No:



A general authorisation has been filed, but not yet registered.



The authorisation filed with the EPO as PCT receiving Office expressly includes the European phase.



4. Request for examination

Examination of the application under Art. 94 EPC is hereby requested. The examination fee is being (has been, will be) paid.



Request for examination in an admissible non-EPO language:



Hämed begärs prövning av patentansökan enligt art. 94.

5. Copies

One or more additional sets of copies of the documents cited in the supplementary European search report are hereby requested.

☐

Number of additional sets of copies

6. Documents intended for proceedings before the EPO

6.1 Proceedings before the EPO as designated Office (PCT I) are to be based on the following documents:

the application documents published by the International Bureau (with all claims, description and drawings), where applicable with amended claims under Art. 19 PCT

☒

unless replaced by the amendments attached.

☐

Where necessary, clarifications should be attached as 'Other Documents'

6.2 Proceedings before the EPO as elected Office (PCT II) are to be based on the following documents:

the documents on which the international preliminary examination report is based, including any annexes

☒

unless replaced by the amendments attached.

☐

Where necessary, clarifications should be attached as 'Other Documents'

If the EPO as International Preliminary Examining Authority has been supplied with test reports, these may be used as the basis of proceedings before the EPO.

☒

7. Translations

Translations in one of the official languages of the EPO (English, French, German) are attached as crossed below:

* *In proceedings before the EPO as designated or elected Office (PCT I + II):*

Translation of the international application (description, claims, any text in the drawings) as originally filed, of the abstract as published and of any indication under Rule 13bis.3 and 13bis.4 PCT regarding biological material

☐

Translation of priority application(s)

☐

It is hereby declared that the international application as originally filed is a complete translation of the previous application (Rule 38(5) EPC)

☐

* *In addition, in proceedings before the EPO as designated Office (PCT I):*

Translation of amended claims and any statement under Art. 19 PCT, if the claims as amended are to form the basis for the proceedings before the EPO (see Section 6).

☐

* *In addition, in proceedings before the EPO as elected office (PCT II):*

Translation of annexes to the international preliminary examination report

☐

8. Biological material

The invention relates to and/or uses biological material deposited under Rule 28 EPC. ☐

The particulars referred to in Rule 28(1)(c) EPC (if not yet known, the depository institution and the identification reference(s) [number, symbols, etc.] of the depositor) are given in the international publication or in the translation submitted under Section 7 on: ☐

page(s) / line(s)

A copy of the receipt(s) of deposit issued by the depository institution

is attached ☐

will be filed at a later date ☐

A waiver of the right to an undertaking from the requester pursuant to Rule 28(3) EPC is attached. ☐

9. Nucleotide and amino acid sequences

The items required under Rules 5.2 and 13ter PCT and Rule 111(3) EPC have already been furnished to the EPO. ☐

The sequence listing as part of the description is attached in PDF format. ☐

The sequence listing does not include matter that goes beyond the content of the application as filed. ☐

In addition, the sequence listing data is attached in computer-readable form in accordance with WIPO Standard 25. ☐

The sequence listing data in computer-readable form in accordance with WIPO Standard 25 is identical to the sequence listing in PDF format. ☐

10. Designation fees

10.1 It is currently intended to pay seven times the amount of the designation fee. The designation fees for all the EPC contracting states designated in the international application are thereby deemed to have been paid (Art. 2 No. 3 RFees). ☒

AT BE BG CH&LI CY CZ DE DK EE ES FI FR GB GR HU IE IS IT LT LU LV MC NL PL PT RO SE SI SK TR

10.2 The declaration in No. 10.1 does not apply. Instead, it is currently intended to pay fewer than seven designation fees for the following EPC contracting states designated in the international application: ☐

It is requested that no communications under Rule 108(3) EPC be issued in respect of any contracting states not indicated.

10.3 If an automatic debit order has been issued (Section 12), the EPO is authorised, on expiry of the basic period under Rule 107(1)(d) EPC, to debit seven times the amount of the designation fee. If states are indicated in No. 10.2, the EPO will debit designation fees for those states only, unless instructed otherwise before the basic period expires. ☒

11. Extension of the European patent

This application is also considered as being a request for extension to all the non-contracting states to the EPC designated in the international application with which "extension agreements" were in force on the date of filing the international application. However, the extension only takes effect if the prescribed extension fee is paid.



It is currently intended to pay the extension fee for the following states:

12. Debit from deposit account

Currency

EUR

The European Patent Office is hereby authorised to debit from the following deposit account any fees and costs indicated on the fees page.

Deposit account number

28100019

Account holder

Albihns Stockholm AB

13. Reimbursements (if any) should be made to the following EPO deposit account:

Number and account holder

28100019, Albihns Stockholm AB

14. Fees

		Factor applied	Fee schedule	Amount to be paid
14-1	005 Designation fee	7	75.00	525.00
14-2	006 Examination fee	1 (40%)	1 430.00	572.00
14-3	015 Claims fee	48	40.00	1 920.00
14-4	020 Basic national fee for an international application	1	90.00	90.00
14-5	033 Renewal fee for the 3rd year	1	380.00	380.00
Total:			EUR	3 487.00

15. Annotations

16. Signature(s) of applicant(s) or representative

Place: **Stockholm**
Date: **16 December 2005**
Signed by: **/Rut Herbjörnsen/**
Capacity: **(Representative)**

For employees (Art. 133(3) EPC) having a general authorisation:
General authorisation No.

Additional representatives:

	epi No:	Reg. number (epoline)
Axell, Kristina	144600	144601.2
Bergstrand, Mikael	91170	091171.9
Fagerlin, Heléne	22770	022771.0
Hellbom, Lars	23090	023091.2
Holmberg, Magnus	143650	143651.8
Hyltner, Jan-Olof	70020	070021.1
Hägglöf, Henrik	143640	143641.9
Larsson, Karin	23390	023391.6
Linde, Jörgen	143660	143661.7
Platt, Timothy	58940	058943.2
Stein, Jan	85840	085840.7
Winblad, Peter	24550	024551.4



Europäisches
Patentamt

European
Patent Office

Office européen
des brevets

Acknowledgement of receipt

We hereby acknowledge receipt of the form for entry into the European phase (EPO as designated or elected Office) as follows:

Submission number	84730	
PCT application number	PCT/SE2004/001018	
Date of receipt	16 December 2005	
Your reference	67787-82334	
Applicant		
Country		
Documents submitted	EPF1200.PDF application-body.xml package-data.xml	OTHER-1.PDF ep-euro-pct.xml
Submitted by	CN=M. Kastner 2786,O=Albihts Stockholm AB,C=SE	
Method of submission	Online	
Date and time receipt generated	16 December 2005, 13:10:17	
Digest	C1:E5:B8:01:AB:8F:F0:D8:86:41:51:E1:D8:FF:51:24:9F:0 2:8F:1E	

/European Patent Office/



P.B.5818 - Patentlaan 2
2280 HV Rijswijk (ZH)
☎ (070) 3 40 20 40
FAX (070) 3 40 30 16

**Europäisches
Patentamt**

**European
Patent Office**

**Office européen
des brevets**

Generaldirektion 1

Directorate General 1

Direction générale 1

Trimble AB
Box 64
182 11 Danderyd
SUEDE



EPO Customer Services

Tel.: +31 (0)70 340 45 00

Date

03.11.05

Reference	Application No./Patent No. 04749056.0 - 2213 PCT/SE2004001018
Applicant/Proprietor Trimble AB	

Entry into the European phase before the European Patent Office

These notes describe the procedural steps required for entry into the European phase before the European Patent Office (EPO). You are advised to read them carefully: failure to take the necessary action in time can lead to your application being deemed withdrawn.

1. The above-mentioned international patent application has been given European application No. **04749056.0**.
2. Applicants **without** a residence or their principal place of business in an EPC contracting state may themselves initiate European processing of their international applications, provided they do so before expiry of the 31st month from the priority date (see also point 6 below).

During the European phase before the EPO as designated or elected Office, however, such applicants must be represented by a professional representative (Arts. 133(2) and 134(1), (7) EPC).

Procedural acts performed after expiry of the 31st month by a professional representative who acted during the international phase but is not authorised to act before the EPO have no legal effect and therefore lead to loss of rights.

Please note that a professional representative authorised to act before the EPO and who acted for the applicant during the international phase does not automatically become the representative for the European phase. Applicants are therefore strongly advised to appoint in good time any representative they wish to initiate the European phase for them; otherwise, the EPO has to send all communications direct to the applicant.

3. Applicants **with** a residence or their principal place of business in an EPC contracting state are not obliged to appoint, for the European phase before the EPO as designated or elected Office, a professional representative authorised to act before the EPO.
However, in view of the complexity of the procedure it is recommended that they do so.
4. Applicants and professional representatives are also strongly advised to initiate the European phase using EPO Form 1200 (available free of charge from the EPO). This however is not compulsory.



5. **To enter the European phase before the EPO, the following acts must be performed.**
(N.B.: Failure validly to do so will entail loss of rights or other adverse legal consequences.)

5.1 If the EPO is acting as **designated or elected** Office (Arts. 22(1)(3) and 39(1) PCT respectively), applicants must, within 31 months from the date of filing or (where applicable) the earliest priority date:

- a) Supply a translation of the international application into an EPO official language, if the International Bureau did not publish the application in such a language (Art. 22(1) PCT and Rule 107(1)(a) EPC).
If the translation is not filed in time, the international application is deemed withdrawn before the EPO (Rule 108(1) EPC).
This loss of rights is deemed not to have occurred if the translation is then filed within a two-month grace period as from notification of an EPO communication, provided a surcharge is paid at the same time (Rule 108(3) EPC).
- b) Pay the national basic fee (EUR 160,00) and, where a supplementary European search report has to be drawn up, the search fee (EUR 960,00 ; Rule 107(1)(c) and (e) EPC).
- c) If the time limit under Article 79(2) EPC expires before the 31-month time limit, pay the designation fee (EUR 75,00) for each contracting state designated (Rule 107(1)(d) EPC).
- d) If the time limit under Article 94(2) EPC expires before the 31-month time limit, file the written request for examination and pay the examination fee (EUR 1430,00 ; Rule 107(1)(f) EPC).
- e) Pay the third-year renewal fee (EUR 380,00) if it falls due before expiry of the 31-month time limit (Rule 107(1)(g) EPC).

If the fees under (b) to (d) above are not paid in time, or the written request for examination is not filed in time, the international application is deemed withdrawn before the EPO, or the contracting-state designation(s) in question is (are) deemed withdrawn (Rule 108(1) and (2) EPC). However, the fees may still be validly paid within a two-month grace period as from notification of an EPO communication, provided the necessary surcharges are paid at the same time (Rule 108(3) EPC). For the renewal fee under (e) above, the grace period is ~~six~~ months from the fee's due date (Article 86(2) EPC).

5.2 If the application documents on which the European grant procedure is to be based comprise more than ten claims, a claims fee is payable within the 31-month time limit under Rule 107(1) EPC for the eleventh and each subsequent claim (Rule 110(1) EPC). The fee can however still be paid within a one-month grace period as from notification of an EPO communication pointing out the failure to pay (Rule 110(2) EPC).

6. If the applicant had a representative during the application's international phase, the present notes will be sent to the representative, asking him to inform the applicant accordingly.

All subsequent communications will be sent to the applicant, or - if the EPO is informed of his appointment in time - to the applicant's European representative.



Date

Sheet 3

Application No. 04749056.0

7. For more details about time limits and procedural acts before the EPO as designated and elected Office, see the EPO brochure

How to get a European patent
Guide for applicants - Part 2
PCT procedure before the EPO - "Euro-PCT"

This brochure, the list of professional representatives before the EPO, Form 1200 and details of the latest fees are now all available on the Internet under

<http://www.european-patent-office.org>

RECEIVING SECTION

